

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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PETRA CHRISTINA BETER,	:	
	:	
Plaintiff,	:	1:24-cv-79-GHW-RFT
	:	
-against-	:	<u>ORDER</u>
	:	
DUANE BAUGHMAN, <i>et al.</i> ,	:	
	:	
Defendants.	:	
	:	
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GREGORY H. WOODS, United States District Judge:		

On May 6, 2024, Magistrate Judge Tarnofsky issued a report and recommendation (the “R&R”) recommending that the Court dismiss Plaintiff’s claims against Defendant Douglas Schoen with prejudice. Dkt. No. 53. In her previous report and recommendation recommending dismissal of Plaintiffs’ claims against another defendant in this case, Judge Tarnofsky determined that Plaintiff had failed to state a claim against Mr. Schoen under “any cognizable legal theory.” Dkt. No. 22 at 24. Plaintiff filed no objections to that report and recommendation, and the Court adopted it in full. *See* Dkt. No. 24. Judge Tarnofsky then invited Mr. Schoen to move to dismiss Plaintiff’s claims on the basis of the deficiencies identified in that report and recommendation. Dkt. No. 33. After Mr. Schoen moved to dismiss, Judge Tarnofsky gave Plaintiff one week to file an opposition. Dkt. No. 48 at 7:21–24. She then extended that deadline *sua sponte* and warned Plaintiff that if she failed to file an opposition by the extended deadline, Judge Tarnofsky would recommend dismissal of Plaintiff’s claims against Mr. Schoen. Dkt. No. 52. Plaintiff did not file an opposition by that extended deadline. In the R&R, Judge Tarnofsky concluded that because “the allegations in the Complaint cannot support any of Plaintiff’s claims against Schoen under any cognizable legal theory,” as she determined in her previous report and recommendation, the claims against Mr. Schoen should be dismissed. R&R at 2.

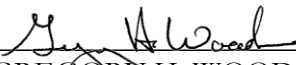
A district court reviewing a magistrate judge's report and recommendation "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). Parties may raise specific, written objections to the report and recommendation within fourteen days of receiving a copy of the report. *Id.*; *see also* Fed. R. Civ. P. 72(b)(2). The Court reviews for clear error those parts of the report and recommendation to which no party has timely objected. 28 U.S.C. § 636(b)(1)(A); *Lewis v. Zon*, 573 F. Supp. 2d 804, 811 (S.D.N.Y. 2008).

No objection to the R&R was submitted within the fourteen-day window. The Court has reviewed the R&R for clear error and finds none. *See Braunstein v. Barber*, No. 06 Civ. 5978 (CS) those portions of a report and recommendation to which no objections have been made, as long as no clear error is apparent from the face of the record."). The Court accepts and adopts the R&R in its entirety. For the reasons articulated by Judge Tarnofsky, Mr. Schoen's motion to dismiss Plaintiff's claims against him is granted. Plaintiff's claims against Mr. Schoen are dismissed with prejudice.

The Clerk of Court is directed to terminate the motion pending at Dkt. No. 45.

SO ORDERED.

Dated: May 21, 2024



GREGORY H. WOODS
United States District Judge